

### **REMARKS**

Claims 1, 4-7 and 9-16 remain pending in the application. Claims 1, 4-7 and 9-16 have been amended. Claims 2, 3 and 8 have been cancelled. No new matter is added.

### **CLAIM OBJECTION**

In the Office Action, claim 7 was objected to because of the following informality: on line 4, “successful” should have been “successfully”. Applicants have made this correction as advised by the Examiner.

### **DOUBLE PATENTING REJECTION**

Claims 13-16 were provisionally rejected as being unpatentable over claims 14, 16, 18 and 19 of copending Application No. 10/550,925 on the ground of nonstatutory obviousness-type double patenting. Applicants have amended the claims to ensure that the claims in both applications are patentably distinct. Therefore, reconsideration of this rejection is respectfully requested. However, should Examiner maintain the rejections, in the interest of bringing prosecution to a conclusion, Applicants will submit a Terminal Disclaimer on allowance of the pending claims, notwithstanding Applicants disagreement with the Examiner’s conclusion.

### **CLAIM REJECTIONS UNDER 35 U.S.C. § 102**

In the Office Action, claims 1, 6, 7, 9 and 13-16 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent Application Pub. No. 2002/0083329 to Kiyomoto (hereinafter “Kiyomoto”). For a claim to be rejected under 35 U.S.C. § 102 (b), the prior art reference must clearly disclose each and every element of the claims in detail as complete as that which is claimed.

#### **1. Claims 1, 6, 7 and 9**

Applicants respectfully acknowledge the Examiner’s comments with regard to Kiyomoto and have consequently amended claims 1 and 7 to reflect fundamental differences between their invention and the invention recited in Kiyomoto. Amended claim 1 now recites:

a plurality of components including a component to store a reference photograph;  
a camera; and  
operating logic *to activate the camera on power-on or reset to take a photograph, receive the photograph, compare the photograph to the stored reference photograph to authenticate a user, and to operate the components depending on whether the user is successfully authenticated based at least in part on said comparison of the photograph to the reference photograph.*

Kiyomoto does not recite “operating logic to activate the camera on power-on or reset to take a photograph”. Kiyomoto merely recites an apparatus with a camera and a fingerprint reading unit which directs a fingerprint image through two or more lenses for capture by a camera. Similarly, claim 7 has been amended to recite:

*an apparatus automatically activating a camera of the apparatus, on power-on, to take a photograph;*  
the apparatus authenticating a user by comparing the *automatically taken* photograph to a saved reference photograph; and  
operating a plurality of components of the apparatus in a manner that is dependent on whether the user was successfully authenticated based at least in part on the photograph.

Kiyomoto does not recite automatically activating a camera of the apparatus, on power-on, to take a photograph. Nor does Kiyomoto disclose authenticating a user by comparing the automatically taken photograph to a saved reference photograph.

Further, Claim 6 has been narrowed to recite that the photograph is selected from the photograph group consisting of a photograph of the user’s face, a photograph of an article, and a photograph of an object. In contrast, Kiyomoto merely teaches using a photograph of a fingerprint for user verification. For at least these reasons, Claims 1 and 7 are patentable over Kiyomoto.

Claims 6 and 9 depend from claims 1 and 7, respectively, incorporating their recitations. Thus, for at least the same reasons as claim 1 and 7, claims 6 and 9 are also patentable over Kiyomoto.

## 2. Claims 13-16

Claims 13-16 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent No. 5,913,175 to Pinault (hereinafter “Pinault”). Claim 13 has been amended to recite a wireless mobile phone comprising:

a camera;

a plurality of components coupled to each other to facilitate wireless telephony communication by a user, with the components being equipped to operate in at least a selected one of a first mode and a second mode, the components including a component to store a reference photograph; and

operating logic to automatically activate the camera, on power-on, to take a photograph, to compare the taken photograph to the reference photograph to authenticate a user, to operate the components in said first mode without authentication of the user, and to operate the components in said second mode if the user is successfully authenticated.

Pinault does not teach a camera or a component to store a reference photograph. Pinault also does not recite operating logic to automatically activate the camera, on power-up, to take a photograph and to compare the taken photograph to the reference photograph to authenticate a user. Because these elements are not recited in Pinault, Applicants respectfully submit that amended claim 13 is patentable over Pinault.

Claim 14 depends from claim 13 and is patentable over Pinault for at least the same reasons. Therefore, Applicants respectfully request reconsideration of these rejections.

As to claim 15, Applicants have amended the claim to recite:

automatically activating a camera of the wireless mobile phone, on power-on,  
to capture a photograph;

authenticating a user by comparing the captured photograph to a stored  
reference photograph;

operating a plurality of components of the wireless mobile phone to facilitate  
wireless telephony communication by a user, in a first mode, if the  
user is not authenticated; and

operating the components in a second mode if the user is successfully  
authenticated.

Pinault teaches a method of establishing a link between a terminal and a user card through the storage of locking data on the user card combined with a calculation function specific to the terminal. Pinault does not recite automatically activating a camera of the wireless mobile phone, on power-on, to capture a photograph; Pinault also does not disclose authenticating a user by comparing the captured photograph to a stored reference photograph. Moreover, Pinault teaches the authentication of the user card rather than the user. For at least these reasons, claim 15 is patentable over Pinault.

Claim 16 depends from claim 15, incorporating its recitations. Thus, claim 16 is patentable over Pinault for at least the same reasons. Applicants respectfully request reconsideration of these rejections.

#### **CLAIM REJECTIONS UNDER 35 U.S.C. § 103**

1. In the Office Action, claims 4, 5, and 10-12 stand rejected under 35 U.S.C. § 103 (a) as being unpatentable over U.S. Patent Application Pub. No. 2002/0083329 to Kiyomoto (hereinafter “Kiyomoto”) in view of U.S. Patent No. 5,913,175 to Pinault (hereinafter “Pinault”). More specifically, the Examiner states that it would have been obvious to one of ordinary skill in the art to modify Kiyomoto to incorporate the storage of reference authentication information on an identity card discussed in column 7, lines 46-52 of Pinault, in order to arrive at the recitations of claims 4, 5, 10 and 11.

Neither Kiyomoto nor Pinault teach or suggest the amended claim 1 recitation of operating logic to activate the camera on power-on or reset to take a photograph or the amended claim 7 recitation of an apparatus automatically activating a camera of the apparatus, on power-on, to take a photograph. As a result, Pinault fails to overcome the deficiencies of Kiyomoto. Because claims 4 and 10 depend from claims 1 and 7, respectively, incorporating their recitations, claims 4 and 10 are also patentable over Kiyomoto in view of Pinault. Similarly, because claims 5 and 11 depend from claims 4 and 10, respectively, incorporating their recitations and limitations, claims 5 and 11 are also patentable over Kiyomoto in view of Pinault. Therefore, Applicants respectfully request reconsideration of these rejections in light of the amendments to the claims as discussed above.

Further, claim 4 has been amended to include a reader to facilitate provision of the reference photograph from an identity card external to the apparatus. Claims 5 and 10 have been similarly amended to clarify that the identity card is external to the apparatus. Neither Kiyomoto nor Pinault teach or suggest a reader to facilitate provision of the reference photograph from an identity card external to the apparatus; instead, Pinault teaches away from this recitation by teaching the storage of locking data in a memory area of a linked user card (col. 7, lines 39-52).

As to claim 12, Applicants respectfully acknowledge the Examiner's point with regard to Pinault. Applicants have consequently narrowed claim 12 to recite "a photograph selected from the photograph group consisting of a photograph of the user's face, a photograph of an article, and a photograph of an object." In addition, claim 12 depends from claim 7 and incorporates its recitations. For at least these reasons, claim 12 is patentable over Kiyomoto in view of Pinault. Applicants respectfully request reconsideration of this rejection.

**CONCLUSION**

In view of the foregoing, reconsideration and allowance of claims 1, 4-7 and 9-16 is solicited. If the Examiner has any questions concerning the present paper, the Examiner is kindly requested to contact the undersigned at (206) 407-1513. If any fees are due in connection with filing this paper, the Commissioner is authorized to charge the Deposit Account of Schwabe, Williamson and Wyatt, P.C., No. 50-0393.

Respectfully submitted,  
SCHWABE, WILLIAMSON & WYATT, P.C.

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by: /Al AuYeung/  
Al AuYeung  
Reg. No.: 35,432

**SCHWABE, WILLIAMSON & WYATT, P.C.**  
U.S. Bank Centre  
1420 5<sup>th</sup>, Suite 3010  
Seattle, Washington 98101  
Telephone: 206-622-1711